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FOR NEA/IPA, NEA/RA AND L/NEA

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SUBJECT: LEGAL OPINION REQUESTED ON ISRAELI GARBAGE DUMPING
IN THE WEST BANK

Classified By: Charge d'Affaires Gene A. Cretz, reasons 1.4 b and d.

This is an Embassy Tel Aviv - Consulate General Jerusalem
joint message.

1. (C) Summary: Media reports of plans for large-scale dumping of Israeli garbage on the West Bank have raised questions about the legality of such waste sites under both Israeli and international law. The Palestinian Environmental Quality Authority will ask that the issue be placed on the agenda for the May 2 meeting of the Israeli-Palestinian Environmental Experts Committee. Both sides have agreed to address the possible implications for the shared Mountain Aquifer within the Joint Water Committee. Israeli officials say that dumping has been halted at the major site highlighted in the recent media reports, but may resume there under controlled conditions. Posts request Department legal opinion on the legality of such dumps under international law. End summary.

2. (U) Israeli newspaper "Haaretz" ran a front-page, above the fold story, April 4 under the headline, "Israel to Dump 10,000 Tons of Garbage a Month on the West Bank." The article reported that Israeli entrepreneurs planned to use the Kedumim (Abu Shusha) quarry, located between the Kedumin settlement and Nablus as a site for garbage waste from the Dan and Sharon regions of Israel. The paper suggested that the dump could harm the shared Mountain Aquifer and Palestinian water wells in the area because some of the garbage could include household trash and other organic materials. The article also questioned whether Israeli authorities had approved the site for waste disposal and quoted a Member of the Knesset and former Minister of Environment as saying, "We are dealing with a double crime. On the one hand, Israel is preventing the Palestinians from making use of the quarry and its resources, and in exchange we're giving them Sharon's garbage. I believe this is a violation of international treaties."

3. (C) Minister of Environment Shalom Simhon told NEA Senior Advisor for S&T Charles Lawson April 6 that dumping at the site had been halted but might resume under regulated conditions. The Minister and an MFA official cited Civil Authority attorneys as saying that the dump did not violate international law. In the meantime, an April 4 article from the Palestinian News Agency quoted Palestinian Environmental Quality Authority (EQA) Chairman Dr. Yousef Abu Safiyeh as saying that Israel was "...silently killing the Palestinian people through their pollution of the Palestinian environment."

4. (C) At the April 7 Trilateral Water Talks, Shaddad Attili, an attorney with the PLO's Negotiations Support Unit, raised the issue of the dump. The Israeli Water Commission and the Palestinian Water Authority agreed to discuss possible implications for the shared Mountain Aquifer in the Joint Water Committee. Grisha Yakubovich, an IDF officer with the Coordination Office for Government Affairs in the Territories (COGAT), told the trilateral group that dumping had been halted in November and that an investigation was underway. When ESTH Officer asked Yakubovich, after the trilateral talks ended, about a "report" on the investigation, he replied that General Mishlev would be willing to give the Ambassador a verbal report when they next met, noting that some of the legal issues were "sensitive."

5. (C) Abu Safiyeh told Lawson, April 10, over the phone that he was going to request that the issue of solid waste dumping in the West Bank and Gaza be added to the agenda for the May 2 meeting of the Israeli-Palestinian Environmental Experts Committee, along with the issue of wastewater flows from Israel into Gaza. MFA Water Issues Director Yaacov Keidar told ESTH Officer April 12 that both issues were legitimate and should be taken up at the May 2 meeting.

6. (C) The Kedumim dump story has raised concerns among both Israelis and Palestinians, reportedly including PM Sharon and VPM Shimon Peres. Haaretz highlighted April 12 that several hundred protesters demonstrated against the proposed plan on April 11 in the West Bank village of Dir Saraf. The Hebrew version of the original Haaretz story included a quote attributed to the Chief Justice of the Israeli Supreme Court stating that the Hague Conventions say military commanders of

occupying powers are not entitled to take national, economic or social interests of their own countries into account, to the extent that they have no implications for their security interests or for the local population's interests.

17. (C) Action request: Embassy and Consulate General request an opinion from L/NEA on the legality of such garbage dumps under international law. End action request.

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